

CITY OF MENDOTA HEIGHTS  
DAKOTA COUNTY  
STATE OF MINNESOTA

Minutes of the Regular Meeting  
Held Tuesday, October 6, 2009

Pursuant to due call and notice thereof, the regular meeting of the City Council, City of Mendota Heights, Minnesota was held at 7:00 o'clock p.m. at City Hall, 1101 Victoria Curve, Mendota Heights, Minnesota.

CALL TO ORDER

Mayor Huber called the meeting to order at 7:00 p.m. The following members were present: Councilmembers Duggan, Schneeman and Vitelli. Councilmember Krebsbach notified Council that she would be late.

PLEDGE OF ALLEGIANCE

Council, the audience and staff recited the Pledge of Allegiance.

AGENDA ADOPTION

Councilmember Duggan moved adoption of the agenda as presented.

Councilmember Schneeman seconded the motion.

Ayes: 4

Nays: 0

APPROVAL OF MINUTES

Councilmember Duggan moved approval of the minutes of the regular meeting held on September 15, 2009 as corrected.

Councilmember Schneeman seconded the motion.

Ayes: 4

Nays: 0

CONSENT CALENDAR

Councilmember Schneeman moved approval of the consent calendar as presented, and authorization for execution of any necessary documents contained therein.

- a. Acknowledgement of the Minutes from the September 22, 2009 Planning Commission Meeting.
- b. Acknowledgement of the August 2009 Treasurer's Report.
- c. Acknowledgement of the September 2009 Building Activity Report.
- d. Acknowledgement of 2009 Pay Equity Implementation report for 2008 Compliance.
- e. Acknowledgement of the 18<sup>th</sup> Annual Fire Awards.

- f. Authorization for Designating the day after Thanksgiving and Christmas Eve as Floating Holidays.
- g. Authorization to Reschedule November 3 Meeting Time to 8:00 p.m.
- h. Approval of Government Banking Resolution for Gateway Bank.
- i. Approval of Building Permit for "I" Zoning District Exterior Work Proposal – the PK Rd Distribution Center.
- j. Approval of Exterior Modification to the Building Located at 2300 Pilot Knob Road.
- k. Approval of Sign Permit for PKF Advisory Group.
- l. Adoption of Resolution No. 09-80: "A RESOLUTION AWARDED ENGINEERING DESIGN FOR RECONDITIONING WATER TOWER FACILITY AND PROVIDING NOTICE TO PROCEED."
- m. Adoption of Resolution No. 09-81: "A RESOLUTION ACCEPTING FEASIBILITY REPORT AND CALLING FOR A PUBLIC HEARING FOR 2010 RECONSTRUCTION PROJECT."
- n. Approval of Contractors List, dated October 1, 2009.
- o. Approval of the List of Claims, dated October 6, 2009, totaling \$540,433.69.

Councilmember Duggan seconded the motion.

Ayes: 4  
Nays: 0

Councilmember Duggan asked to comment on item e and said it would be nice to have a report submitted by the Fire Department as to what they look for and what can be done to encourage all the businesses in the community to work towards receiving this award.

#### PUBLIC COMMENTS

Councilmember Duggan said the Firemen's Ball will be held on November 21, featuring the Rockin' Hollywoods and encouraged residents to purchase a lot of tickets and spoke of the excellent service that the community receives from their volunteer fire department.

Mayor Huber said that the community will not be holding its annual Halloween bonfire as was the tradition for many years at the Mendota Plaza. Mayor Huber said Paster Enterprises have been very gracious to host this event over the years, but will not be able to do so now as they are beginning their reconstruction work. Mayor Huber said

Council hopes that a suitable site will be found for this event in the many years to come.

Councilmember Duggan recited a Halloween poem that he recently wrote.

Councilmember Krebsbach joined the council at this time.

## NEW CITY ADMINISTRATOR

Mayor Huber said it was his great pleasure to introduce the new City Administrator, David McKnight. Mr. McKnight has worked for fifteen years in local government, recently serving as the Administrator for Dodge County. Mr. McKnight holds a Bachelor's Degree in Law Enforcement and has a Masters Degree in Urban Studies. Mayor Huber welcomed Mr. McKnight to the City of Mendota Heights. Mr. McKnight said he was pleased and excited to work with the city, saying that he is looking forward to coming back to city government. Mr. McKnight thanked the City Council for this opportunity and said staff has been very helpful to him. Mr. McKnight invited the City Council to contact him at any time should they wish to have conversation.

Councilmember Vitelli moved adoption of Resolution No. 09-82, "A RESOLUTION APPROVING AN EMPLOYMENT AGREEMENT."

Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

## INTELLIGENT COMMUNITY INITIATIVE

Mr. Bill Coleman is the Executive Director for Dakota Future, which is a county-wide economic development organization that is funded primarily by the private sector, but includes board members from business, education and government.

Dakota Future's mission is to "provide linkages between businesses, government and education to create and maintain a world class economic environment in Dakota County." Their goal is to "achieve designation as a Top Seven Global Intelligent Community by 2012."

Mr. Coleman said an intelligent community is one that focuses on broadband technology as a base for economic development ensuring that the community has a

knowledgeable workforce to help retain the businesses, develop businesses and have the best workforce in the area.

Mr. Coleman talked about benchmarking with thirty other communities around the world. Mr. Coleman said they are working with the Department of Economic Development to keep the IT profession prevalent in the community as there are shortages of such support.

Mr. Coleman invited everyone to attend their October 8<sup>th</sup> reception at Unisys in Eagan from 4:30 pm to 6:30 pm, as well as their seminar on October 9<sup>th</sup> at Dakota County Technical College at 9:00 am.

Councilmember Krebsbach asked where Mr. Coleman's office is. Mr. Coleman said he is the only staff member and works in a virtual office.

Councilmember Krebsbach asked where the Intelligent Community initiative is based out of. Mr. Coleman said it is based out of New York but is a global organization. Stockholm has been the latest recipient of this recognition and last year it was Seoul, Korea.

Councilmember Krebsbach said Seoul has become a world class city in the past ten years in technology. Councilmember Krebsbach said if the city is operating that kind of network, this will be good for Dakota County. Mr. Coleman said Seoul is seen as a global leader in broadband services.

Councilmember Duggan said he was fortunate to attend one of these sessions four years ago and there were some dynamic speakers. Councilmember Duggan said at that time, there were some dire forecasts presented and asked where the initiatives are in relation to some of the concerns and worries in IT advances now from then, and are we better off or have we improved since there. Mr. Coleman said the world has made some steady progress.

MSP LTCP BRIEFING  
DENNIS PROBST

City Administrator Jim Danielson said the MAC staff has had to go to Burnsville and will be late to this meeting. They have asked to be placed later on the agenda.

## CASE NO. 09-29, HAGGERTY

Mr. Sedlacek reviewed an application from Maureen Haggerty for a conditional use permit for a fence over 3-ft. high along the right of way at 790 Ridge Place. The setback requirement for a right of way is 30-ft. and there is conditional use permit language in the city code where a fence can be placed up to 6 feet tall. There is also a request for a wetlands permit for a fence which is located within 100 feet of a wetland buffer.

Mr. Sedlacek said there is a past history on this matter. In 2005 there was approval of a conditional use permit and a wetlands permit for a fence. Mr. Sedlacek presented a map that was used in 2005 showing the original request where the fence was to be located 32 feet from the front property line and within the right of way. At that time, the Planning Commission and City Council found that the fence was a reasonable request but it had to be located on the subject property.

Mr. Sedlacek said while there was a conditional use permit and wetland permit issued to actually cross the stream, there was no fence permit pulled, and because of that, both of the permits have been voided. The work did occur and staff received a code complaint about the fence being in the right of way and that has transpired into what is before the Council at this time by way of an enforcement action. Mr. Sedlacek said while there is a past history, he reminded Council that the request to be considered tonight is for a conditional use permit along the right of way and a wetlands permit for a fence within 100 feet of the wetland.

Mr. Sedlacek said the request includes a 5 foot cedar fence along the front of the property which needs to be moved from the right of way to within Ms. Haggerty's property. Part of the fencing is a welded wire fence four feet in height. A "California-style" fence (cedar post and chain link combination) runs along the west side of the property.

A public hearing was held in July at the Planning Commission meeting and there was a lot of debate about how fence applications are treated in regards to wetlands. There was some intense neighborhood opposition on this issue. That matter was then tabled and heard again at the

September Planning Commission meeting and the application is to have the cedar fence constructed outside the front yard setback within the property line. The applicant agreed at the Planning Commission meeting to construct the fence within the property respective of the setback areas.

The applicant also agreed that there would be no fencing within a 25 foot buffer from the center line of the stream. Mr. Sedlacek explained how the fenceline could run along the stream and back of the property. The Planning Commission put a number of conditions on their approval recommendation, which are listed in the Council packet. Those conditions include:

- That the existing fence must be completely removed by November 15, 2009.
- The fence permit must be applied for from the city within 6 months of the date of the final City Council approval of the conditional use permit.
- Any fence must be constructed pursuant to all applicable city codes including but not limited to the following:
  - The fence must be located completely within the applicant's property and meet all applicable setbacks.
  - The fence must meet the 30% opacity requirement.
  - The finished side of the fence must face the neighboring property owners.
- Conditions were also applied to the wetlands permit:
  - The fence shall be set back at least 25 feet from the center line of the stream.
  - Natural vegetation shall be allowed to grow within the 25 foot buffer area sufficient to establish a permanent cover.
  - The fence shall be located outside any public easement.
  - The area on the property outside the fence line that is disturbed shall be re-vegetated with the appropriate wetland buffer plantings and grasses.
  - All issues with the grading, drainage and erosion control of the site shall be subject to review and approval by the city engineer.

The Planning Commission had a number of findings as well that were provided in the City Council packets.

Councilmember Duggan asked for clarification on the map of the recommendations of the Planning Commission where the fencing shall be located. Mr. Sedlacek indicated where that fence line shall be.

Councilmember Duggan said there was some concern that the California fence was on the Jenniges' property. Mr. Sedlacek said that is a matter that should be handled between the property owners and is not the concern of the city.

Councilmember Duggan referred to the fencing along the right of way and asked if that is to be on the property line which will then require a survey. Mr. Sedlacek said the condition that the Planning Commission applied was that the fence was to be located completely on Ms. Haggerty's property.

Councilmember Duggan said there is a question on whether the welded wire fence meets the city's requirements. Ms. Haggerty's attorney previously stated that there is nowhere in the city ordinance that says what the fence should be. Mr. Sedlacek said the code says it needs to be done in a "workman – like fashion" which is a very broad range. Staff reviewed this and determined that if it is constructed correctly, the welded wire would certainly meet the requirement. Because this is a conditional use permit application, the City Council has the opportunity to say this does not fit within the character of the neighborhood.

Councilmember Duggan asked about the property to the south of the stream. Mr. Sedlacek said this small triangle is a sufficient distance from the buffer. Neighbors had expressed their concern about a small "L-shaped" fence in this area that would not fit within the character of the neighborhood.

Councilmember Duggan asked about the opacity of the fence. Mr. Sedlacek said there are some issues that some of the fencing was constructed in a style that was approved in 2005, where the City Council felt it met the 30% opacity

rule. But now it is up to this Council to decide if this meets the proper requirements.

Councilmember Duggan said he supports the recommendation of the Planning Commission and asked if the previous wetlands permit is still in effect. Mr. Sedlacek said Ms. Haggerty's legal counsel had an opinion on the matter, but the code says very clearly that if action is not taken on the wetlands permit within 6 months, that approval is void.

Mr. Sedlacek said staff has not found any previous applications where there was a request to cross a wetland with a fence.

Councilmember Duggan commended the Planning Commission for their diligence in this matter.

Councilmember Vitelli asked if there is a remedy should the fence not be taken down by the specified date. Public Works Director John Mazzitello said if the fence is not removed by the specified date, and the fence is on city property, the city has the right to remove it at the property owner's cost.

Maureen Haggerty, 790 Ridge Place, said she has made some additions to the home since she purchased it. Ms. Haggerty explained that when the fence was constructed, it was constructed to stay within the line of the front of the home, which was not correctly lined up parallel with the street, and in no way did she intentionally construct the fence in the setback. Ms. Haggerty said a mistake was also made on the fencing along the right of way and she did not intentionally place the fence in the right of way, but had followed what her ex-husband, who constructed the fence, had believed to be a property marker.

Ms. Haggerty said the welded wire fence goes through very thick woods and she installed that type of fence feeling that it would blend well into the woods.

Councilmember Krebsbach asked why she needed a fence. Ms. Haggerty said she has three large dogs and would like to have a lot of room for her dogs, which is why she purchased this lot. Ms. Haggerty explained how the dogs

run around the yard, and that they would not dig their way out of the fenced area because Ms. Haggerty also has invisible fencing.

Councilmember Krebsbach asked if the applicant feels that the fencing around the wetland is needed to keep her dogs in. Ms. Haggerty said they could live just fine in a 10 x 10 kennel but she chooses to fence in the whole yard for them. Ms. Haggerty said she enjoys her entire yard and wants to have the dogs close by when she is out there.

Councilmember Schneeman said the most important thing is that the fence is set back at least 25 feet and asked Ms. Haggerty if she understands that. Ms. Haggerty said she is fine with that.

Mayor Huber asked for staff's opinion on having the property surveyed. Mr. Mazzitello said part of the application process to obtain the fence permit requires a certified survey if the fence is going to be placed in the proximity of the property line. Ms. Haggerty said she is in agreement with that.

Mr. Gerald Jenniges, 800 Ridge Place, is the neighbor to Ms. Haggerty. Mr. Jenniges talked about his opposition to the fence along his property, as he can see the fence and does not want it there. Mr. Jenniges said he is opposed to a fence along the south end of his property, and would not want an additional fence going at an angle. Mr. Jenniges said if a new fence is built along the east side of his property, he will not approve anything outside of a black chain link fence built to the city's specification. Mr. Jenniges said he does not know why Ms. Haggerty needs all this land for three dogs. Mr. Jenniges said he would like to purchase this portion of the property, but Ms. Haggerty will not sell.

John Steenburg, representing his parents Marge and Paul Steenberg, 804 Ridge Place, presented some photos of the fencing for the Council's review. Mr. Steenburg said it was his understanding that the buffer setback was to be 25 feet from the high water level (end of bank). Mr. Mazzitello said the recommendation from the Planning Commission is that the setback be 25 feet from the center line so there is one solid 50 foot band. Mr. Steenburg said there is an easement

along the stream for a sanitary sewer and if the fence is placed along there, the fence would go over this right of way. Mr. Steenburg said the fence is clearly visible from his parents home. The natural wood of the fence is highly reflectable from the sun and made suggestions on how the fence could be placed to eliminate this view. Mr. Steenburg said he would also prefer a black chain link fence as well.

Mr. Steenburg talked about the structural design of the fence posts and indicated where the fence posts are not properly placed and the design of the posts is not acceptable.

Mr. Jenniges said the fencing is not constructed in a very professional manner and that there are areas of the fence that are on his property. Mr. Jenniges said he would like to see that fence come down.

Mr. Steenburg asked what the process will be to ensure that a new fence is built properly. Mr. Mazzitello said with the fence permit application, there is a certified survey that will need to be submitted and with this survey, the code enforcers can make sure that the fence is built in accordance with the conditions of the conditional use permit, one of which states that the fence is on the applicant's property.

Mr. Jenniges said he would like to ask Ms. Haggerty about the type of fence she is proposing to place along his property as she has not made any attempts to talk to him about this and is not willing to cooperate with him.

Councilmember Krebsbach said the city has a lot of properties in which the property owners own a piece of a wetland and asked Mr. Danielson if there are other places in the city where someone could fence across a creek. Mr. Danielson said he is not aware of any. Councilmember Duggan said he believes that Somerset Country Club does have a fence that crosses the creek internally, but that is private property. Mr. Mazzitello said when the applicant provided photos of Somerset Country Club, he investigated this concern. That fence installation pre-dates any city ordinance.

Councilmember Krebsbach said she has an issue with placing a fence across a wetland, and said that just about every sector of any residential neighborhood in Mendota Heights either has a bluff, creek, pond or marsh.

Councilmember Krebsbach said she will not support putting a fence across the creek and it is to be expected that whenever building a home around a pond or creek, this is a common visual amenity of the city.

Councilmember Duggan talked about the fencing on his property, which is required because of his swimming pool. It is made of black clad fence and is difficult to see. This fence had to be 25 feet or more from the high water mark of the pond. These are amenities of the community and should not be blocked by homeowners. Councilmember Duggan said he does not believe there is anything in the ordinance that would allow a fence across a waterway and would not support a fence across this stream.

Councilmember Duggan said the applicant has the right to use her yard, and can do so by placing gates to allow access to the stream and the rest of the yard. Councilmember Duggan acknowledged that there is a possibility of dogs crossing the invisible fencing in pursuit of deer. Ms. Haggerty said that is her fear.

Councilmember Duggan asked Ms. Haggerty to comment on her comfort level with the suggestions made by Mr. Steenburg and Mr. Jenniges. Ms. Haggerty said the reason she purchased this lot was because of the creek and said she would not be willing fence the creek access off. Ms. Haggerty said the California fence is natural cedar and choose this type believing it was an upgrade from chain link. Ms. Haggerty said she is willing to stain the cedar portion to deter the reflection and is very happy to place the fence within her property line. Ms. Haggerty said she is not in favor of having a fence run through her property and will agree to what the Planning Commission is recommending.

Councilmember Duggan said staining the fence would help reduce the reflection.

Councilmember Duggan asked how much fencing will be taken down. Ms. Haggerty said she will only move

portions that are not within her property line. Ms. Haggerty said she will also be removing some of the boards from the fencing to be in compliance with the 30% opacity.

Mayor Huber asked if any fencing will run parallel to the creek. Ms. Haggerty said if she wanted 100% closure, she would have to install a fence along the buffer, but the Jenniges would not like to see two fences and she does not want to block off her access to the stream. Ms. Haggerty said she will do as much of the fence as possible except for the area around the stream, adhering to the setback requirements of the city. Ms. Haggerty said she is comfortable leaving this area open while she has invisible fencing in this area and will be investigating the use of deer repellent.

Ms. Haggerty said she also wants to make sure that people and dogs using the pathway back there don't come into her yard. Ms. Haggerty confirmed that the fence will be open 50 feet on each side of the property to allow the stream flow through.

Councilmember Vitelli said he believes the Planning Commission did an excellent job and would support this resolution as proposed with all of the conditions imposed for the conditional use permit and the wetland permit. Councilmember Vitelli said there are all kinds of reasons why people don't want this and that, but people have rights when they own property and those rights are reflected here with reasonable constraints.

Councilmember Krebsbach said they have rights but there is a superseding wetland ordinance to ensure protection of the wetland and therefore looking at this configuration, she will not support this with a fence crossing a wetland. Mr. Sedlacek said the fence would not be crossing the buffer area. Mr. Sedlacek said the permit is to address anything that is within 100 feet.

Councilmember Vitelli moved adoption of Resolution No. 09-83, "A RESOLUTION APPROVING A CONDITIONAL USE PERMIT AND WETLANDS PERMIT FOR A FENCE AT 790 RIDGE PLACE."

Councilmember Schneeman said the fence permit will be coming back to the Council and she hopes that Ms. Haggerty will work with her neighbors.

Councilmember Schneeman seconded the motion.

Ayes: 4

Nays: 1 (Krebsbach)

#### MSP LTCP BRIEFING

Mr. Dennis Probst reviewed MAC's comprehensive plan which includes a solution that has a new west terminal over Crosstown 62 and requires significant construction of modifications to the Lindbergh Terminal.

Mr. Probst gave a presentation with the latest updates that include Aviation Enplanement Forecasts, parking requirements, and other key factors. This construction will allow for two double sided concourses and new parking areas. Mr. Probst said air jet sizes will be increasing to carry more people with fewer operations.

Mr. Probst said they anticipate a continued growth of international flights. Councilmember Krebsbach said people are telling her that they are hearing DC9's again. Mr. Probst said DC9 fleets are actually decreasing. Councilmember Krebsbach said residents are experiencing noisy aircraft during the day. Mr. Chad Leqve and Ms. Liz Petschel said that is not the case.

Mr. Probst said there is significant parking at the Humphrey terminal now and they would like to offer additional parking at Lindbergh to balance that out. Improvements that are being proposed are to better assist travelers with additional gates and parking, and potentially relocating some facilities over time. Rental car companies will also be better available for travelers.

Mr. Probst said they anticipate capacity of 630,000 operations and passengers up in the 56 million range. This is about a 16% increase from 2005. Councilmember Krebsbach asked if the runway configuration will handle this. Mr. Probst said it will. Councilmember Krebsbach said there would be great opposition to a third parallel runway and asked if there are any plans to proceed in that direction. Mr. Probst said they are not permitted by state law to even look at this option until 2035 and given

development and cost both financial and social, he cannot believe that this will ever happen.

Mr. Probst reviewed a map of the future 2030 build out.

Councilmember Krebsbach expressed her concern with the Pilot Knob site and the safety issues and said that MAC took a position that the city should not develop that site. Mr. Leqve said that is because of noise issues.

Mr. Probst said that most of any additional construction will be demand driven. Mr. Probst said expansion for international flights is less than optimal. Mr. Probst said they do not anticipate seeing the A380 (three story planes) at this airport, although MSP has been identified as an emergency landing location for such aircraft. The runways are not large enough to accommodate their large wingspans without escort.

Councilmember Vitelli asked how sensitive are the projections on passengers and operations in relation to the price of oil. Mr. Probst said the assumption is that EOE forecasts for fuel prices going upward to \$200 per barrel and there is some sensitivity.

Councilmember Duggan said HNTB is the source for a lot of these projections, and asked what their record is. Mr. Probst said their record is very good. Councilmember Duggan said one of his concerns was prior to 2001, projections were for 582,000 operations by 2030 and despite all those setbacks, we now have in excess of that. There is a lot of confidence that the economy is going to grow dramatically in the next twenty years. Mr. Probst said the forecasts that were done in the 1990's were up through 2020 so the numbers that Councilmember Duggan is recalling is for 2020 and not 2030.

Councilmember Duggan asked if this growth will bring more employment. Mr. Probst said there are no precise forecasts on that but they believe that there will be a proportional growth of employees.

Mayor Huber asked how they are going to be generating money to pay for this. Mr. Probst said they have not had an opportunity to speak to every carrier and will be doing

the same presentation to all of them this week. To date, responses are being fairly positive and the fundamental financing will be very similar to the 2010 program (increased traffic and passenger activity will bring facility charges).

Councilmember Krebsbach asked where any increases will be seen in international travel. Mr. Probst said he does not know that they have specific destinations on the forecast, but see a general growth to those destinations that are being currently served. Mr. Probst said he believes Delta would be the major international carrier and Sun Country will continue to fly to destinations. Southwest is starting to fly internationally and it remains to be seen to what happens with them. Mr. Probst said they are also actively talking to other potential carriers such as British Air. Carriers are not making commitments at this time.

Councilmember Duggan acknowledged the presence this evening of Liz Petschel and Sally Lorberbaum from ARC and extended thanks to them and to Mr. Probst and Mr. Leqve for this presentation.

#### CASE NO. 09-34, KUTOFF

Mr. Sedlacek introduced Case 09-34 which is for a conditional use permit for retail as an accessory use in an industrial zone. Last month, the City Council approved a zoning amendment allowing retail use as an accessory use.

Materials Processing Corporation signed the lease today to move into 2300 Pilot Knob Road and is a company that takes electronic components and recycles the precious metals. They have a small retail component to the business where patrons can walk in to purchase items that have been reclaimed or restored.

The application meets all conditions of the zoning amendment and shows there is ample parking and the retail space is far less than 5%. Due to oversight of staff and the applicant, the applicant is hoping to have hours of operation until 7:00 pm on weekdays. It was approved to have the hours be 8:00 am to 5:00 pm seven days a week. The Planning Commission held a public hearing on this matter at their September 22<sup>nd</sup> meeting and recommended approval of the conditional use permit but then took additional action

and made a motion asking staff to pursue alternatives for expanding the hours to 7:00 pm on weekdays.

Councilmember Krebsbach asked if the ordinance will need to be changed. Mr. Sedlacek said it will have to be changed. City Attorney Tami Diehm said the ordinance will have to be changed because the hours are 8:00 am to 5:00 p.m. in the ordinance.

Councilmember Duggan asked if the new ordinance has been published. Mr. Sedlacek said it has been.

Councilmember Duggan moved adoption of Resolution No. 09-84, "A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR RETAIL SALES AS AN ACCESSORY USE IN THE "I" DISTRICT AT 2300 PILOT KNOB ROAD" and to take action to change the hours that have been initially placed in the ordinance to "normal business hours".

Councilmember Duggan said this will give the opportunity to place certain hours in there as needed to accommodate businesses that wish to stay open.

Councilmember Vitelli asked what the normal business hours would be. Councilmember Duggan said whatever the applicant chooses.

Mayor Huber asked if it would be better to have the ordinance state specific hours. Ms. Diehm said that would be better.

No one seconded the motion, therefore the motion dies.

Mr. Todd Shackman, co-owner of MPC, said the company is very pleased to be moving to Mendota Heights. This will be the main headquarters and main processing facility. In January of 2007, they had 19 employees and processed about three million pounds each year. Today, they are processing over twenty two million pounds and currently employ over 106 employees.

Mr. Shackman said they would like to operate their retail operation, named "Reboot," until 7:00 pm to accommodate the consumers as there are people that come after normal

work hours. They also opened a store on Hennepin Avenue in Minneapolis and said a need is out there. They would like to continue to grow and maintain their customer base.

Councilmember Krebsbach moved adoption of Resolution No. 09-84, "A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR RETAIL SALES AS AN ACCESSORY USE IN THE "I" DISTRICT AT 2300 PILOT KNOB ROAD."

Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

#### CASE NO. 09-35, COSTELLO

Mr. Sedlacek introduced Case No. 09-35 for an 8-ft. variance to the string rule at 24 Somerset Road for a garage expansion project.

Currently, there is a single car attached garage on a narrow lot that has a square footage lower than the required amount per city code and is non-conforming. In order to expand the garage, the existing garage is right against the property line, any expansion to bring the garage up to conformance would require a variance. The applicant has considered a number of alternatives, but the preferred plan is documented at Study 2, Sheet 4 which comes within 2 feet of the lot line, and would require an 8-ft. setback. Mr. Sedlacek noted that all the homes along this side of the street are at the same setback of 60 feet, which is well within the required 30 foot setback requirement, but because of the string rule, anything that encroaches into the area defined by the string rule would also require a variance.

The Planning Commission had a lengthy discussion about the location of the garage and the alternatives being considered. The consensus of the commission was that expansion to the side was reasonable to make a wide enough garage for two vehicles but they really wanted to be certain that the applicant exhausted all of their options for the location. The finding of the hardship was felt to be the access into the home by way of a screen porch, and this option would work well by not having to move doorways, which would create a hardship.

The Planning Commission held a public hearing on this on September 22<sup>nd</sup> and there were a few people who spoke in

favor of this application, including the neighbor (Mr. Heinz Otte) directly to the north who would be significantly affected by the application. The Planning Commission voted in favor of recommending approval of the application with the findings as outlined in the staff report.

Councilmember Duggan asked if the string rule applied to the front of the house or the back. Mr. Sedlacek said it applies to the front of the house.

Councilmember Krebsbach said the resident at 1260 Dodd Road did not sign off on the approval and asked if there was any opposition on their part. Mr. Sedlacek said staff has received no responses in opposition.

Mr. Sedlacek made a clarification that with this application and design, the covered front entryway step is supported by posts that will require an additional 3 foot variance as it encroaches further into the string line. The request, then, is an 11 foot front yard setback variance. Mr. Sedlacek said the preferred alternative would be a 49 foot setback.

Mayor Huber told the applicant that the city will be granting an additional three feet and asked if this was understood. Mayor Huber also asked the applicant if the front entryway would remain open sided and not enclosed.

Thomas Costello, 24 Somerset Road, said he understands the variance that will be granted and that the entryway will remain open sided and not be enclosed.

Councilmember Duggan asked if this should be noticed again with this new information on the entryway. Ms. Diehm said it would be fine to approve the resolution.

Councilmember Vitelli moved to approve Resolution No. 09-85, "A RESOLUTION APPROVING A VARIANCE TO THE STRING RULE AND SIDE YARD SETBACK FOR HOME/GARAGE ADDITION AT 24 SMERSET ROAD," recognizing the proper variance for the front entry.

Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

**SEWER UTILITY RATE INCREASE**

Mr. Mazzitello explained that the city has not raised sanitary sewer rates since 1994 even though the MCES charges to the city have increased significantly since then. The city currently has a residential base rate of \$35.00 for the first 15,000 gallons used per quarter. For every 750 gallons used above that, single family homes are billed an additional \$1.45.

Staff is recommending approval of a rate increase from \$35.00 to \$50.00 per quarter, with commercial rates increasing by a corresponding percentage to the residential increase. The proposed increase is required to maintain the revenue stream required to have a self-sustaining utility fund and to defray water and sewer related costs.

Mayor Huber said this topic has been in discussion for some time now and auditors have recognized the need for an increase as well. It was also discussed at the latest budget workshop. Mr. Mazzitello said notifications have been sent to residents and business owners.

Councilmember Vitelli moved to approve Resolution No. 09-86: "A RESOLUTION AUTHORIZING SANITARY SEWER USAGE RATES BEGINNING IN THE 4<sup>TH</sup> QUARTER OF 2009."

Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

**INSURANCE AGENT CHANGE**

Finance Director Kristen Schabacker said the city Currently has its property/casualty and workers compensation insurance through the League of Minnesota Cities, working with Angelo Galioto from Wells Fargo Insurance Services of Minnesota.

Ms. Schabacker said she was recently contacted by Ken Petschel of Bearence Management Group, who has submitted a proposal to be the city's insurance agent and has offered to reduce the commissions the city pays by 15% (approx. \$1,700).

According to the League of Minnesota Cities, cities have the ability to select any licensed insurance agent and can also negotiate commission percentages. Should the Council

be interested in switching agents, staff can be directed to send a letter to the League of Minnesota Cities to switch their agent for the November 1<sup>st</sup> renewal.

Councilmember Krebsbach asked if other brokers were contacted. Ms. Schabacker said Mr. Petschel came to her and she has not talked to anyone else.

Councilmember Vitelli said he does not object, and said there is not much information on other possible competitive bids.

Mayor Huber asked if this was the best time to make a change. Ms. Schabacker said this would be the best time because otherwise the city will have to wait a whole year until the renewal is up. Mayor Huber asked if this is done annually. Ms. Schabacker said that was correct. Mayor Huber suggested to make the change, and have Ms. Schabacker gather information for the next year bringing bids back from other companies.

Councilmember Vitelli moved to change the insurance agent to Bearance Management  
Councilmember Duggan seconded the motion.

Ayes: 5

Nays: 0

#### COUNCIL COMMENTS

Mayor Huber said that he and Councilmember Schneeman will be working off-line on the audits.

Councilmember Vitelli said a lot of these auditors do about the same thing and would look at what it is costing the city and who the companies are assigning this to, as he would not want the primary contact people to be rookies. He would like to know who will be doing the work and what percentage of their time will be allocated to that work.

Councilmember Krebs back said she would agree and that it is always good to do RFPs.

Councilmember Vitelli asked about the school bus accident that occurred this morning. Mr. Danielson updated the Council on the accident.

Councilmember Krebsbach commended the parents of St. Thomas Academy and Sibley High School students for

their support of the football games, bringing great community spirit to these events.

Councilmember Krebsbach informed Council that Minnesota Block M, a northern Dakota County University of Minnesota Alumni Chapter, which she, Paul Portz and Kevin Milberry started a couple of years ago, is getting an award as the outstanding chapter.

Councilmember Duggan talked about the wonderful turnout at the Par 3 golf tournament.

Councilmember Duggan asked that the businesses along Mendota Heights Road be notified about the roundabout. Mr. Mazzitello said that is already in the works.

Councilmember Duggan asked about the possibility of limiting trash haulers as there would be less noise and deterioration of the roads. Mayor Huber said this is something that is well intended but residents would most likely object to having no choice of haulers. Councilmember Vitelli said he would agree, and if neighbors are annoyed, they should get together as a group to find one hauler for their area.

Mayor Huber offered congratulations to Ms. Diehm who has been named one of the top lawyers by Minneapolis/Saint Paul Magazine.

ADJOURN

There being no further business to come before the Council, Councilmember Duggan moved to adjourn the meeting.

Councilmember Vitelli seconded the motion.

Ayes: 5

Nays: 0

Time of Adjournment 9:35 p.m.

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Rebecca Shaffer  
Recording Secretary

ATTEST:

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John J. Huber

Mayor